

REMARKS

Applicant respectfully requests reconsideration of the application and allowance of all pending claims in view of the above amendments and the following remarks. No claims are amended, added or canceled. Claims 1-30 remain pending in the application.

Rejections Under 35 U.S.C. § 102(e)

The October 13, 2006 Office Action (“Office Action”) rejects claims 1-30 under 35 U.S.C § 102(e) as anticipated by U.S. Patent Application 20040236958 by Teicher et al. (“Teicher”). However, Teicher is not a valid Section 102(e) reference.

Teicher has a November 12, 2003 filing date and purports to claim priority to Provisional Application 60/473,573 which has May 25, 2003 filing date. Applicant therefore assumes for purposes of this response, but does not admit, that Teicher has an effective filing date of May 25, 2003.

However, Applicant conceived the claimed invention in this country (U.S.A.) at least prior to January 24, 2003 – prior to Teicher’s purported effective filing date of May 25, 2003. Further, Applicant exercised due diligence to constructively reduce his invention to practice from a time just prior to May 25, 2003 until Applicant’s filing date of June 20, 2003. Therefore, Teicher is not a valid Section 102 reference and the Section 102)(e) rejections based on Teicher should be withdrawn.

In support of the above, Applicant submits the accompanying Declaration of Steven L. Grobman (“Grobman Declaration”), made pursuant to 37 C.F.R. § 131. The Declaration states that Grobman conceived the invention in this country while employed by Intel Corporation “At least prior to January 24, 2003.” (Grobman Declaration, ¶ 4).

As evidence of conception, Grobman submits as Exhibit A to his declaration an Intel Invention Disclosure form (numbered 29945) with the invention entitled, "Illicit Data Dumping Prevention in P2P Storage Partnerships." *Id.* ¶ 5. The pages of the Invention Disclosure form are representative of his inventive work and were created at least as early as January 24, 2003.

Applicant further declares that he exercised due diligence in reducing his invention to practice from "at least prior to May 25, 2003" until constructive reduction to practice (application filing on June 20, 2003). *Id.* ¶8. Applicant's due diligence includes his submission of the above-described Invention Disclosure form to the Intel Legal department for review, evaluation, and selection for filing as a U.S. Patent application. *Id.* ¶ 9. His diligence further includes working with patent attorney J. Scott Heilson to prepare the present patent application.

A review of Ex. A to the Grobman Declaration (the "Invention Disclosure form") demonstrates that it discloses the elements of claim 1. In particular, a figure on page 4 of the Invention Disclosure form depicts the elements of claim 1. In this figure, "K" stands for key, "OB" stands for "Own blob" (first backup data at peer#1) and "PB" stands for "Partner's Blob" (first backup data at peer #2).

Regarding claim 1, the figure depicts the following:

generating a first key ("Peer #1 (5) Generate Random Key (K)");

generating first validity data based on the first backup data and the first key ("derive MD5(K + OB)");

sending the first key to a peer storing the first backup data ("Send K" with arrow in direction of peer#2);

requesting second validity data to determine whether the first backup data is preserved by the peer (“Peer #1 randomly decides to ‘challenge’ peer #2 to ensure per #2 has not discarded the blob” read together with “send K” to peer #2) (*See also*, “The challenger sends the random key to its partner who must perform the identical procedure,” Invention Disclosure form, p. 3);

wherein the second validity data is based on the first backup data stored by the peer and the first key (Peer #2 “Receive (K) and derive MD5(K+PB)”).

The figure from the Invention Disclosure form therefore discloses the subject matter of claim 1. Teicher is therefore not a valid reference as to claim 1 and cannot anticipate claim 1. The other independent claims, 11 and 21, similarly recite subject matter that is disclosed in the above figure from the Invention Disclosure form.

Independent claims 11 and 21 are therefore also cannot be anticipated by Teicher.

Dependent claims 2-10, 12-20 and 22-30 are deemed to recite the limitations of their respective independent claims. They therefore also are deemed to recite subject matter that was invented prior to the effective date of Teicher. They therefore also cannot be anticipated by Teicher.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (503) 439-8778 if there remains any issue with allowance of the case.

Charge our Deposit Account

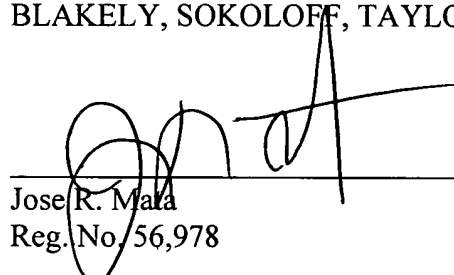
Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date:

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Jose R. Mala
Reg. No. 56,978

12400 Wilshire Boulevard
7th Floor
Los Angeles, California 90025-1026
(503) 439-8778